

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 00-0088P**

**Sales and Use Tax**

**Calendar Years 1991, 1992, 1993, 1994, 1995, 1996, 1997, and 1998**

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**ISSUE(S)**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer protests the penalty assessed on an audit completed on September 24, 1999.

At audit, it was discovered that the taxpayer was not registered to collect sales tax although it sold tangible personal property such as brochures, postcards, posters, and other advertising material. Taxpayer specializes in fine quality graphic design that includes advertising, computer illustration, corporate identity, image brochures, and web design.

I. **Tax Administration** – Penalty

**DISCUSSION**

At issue is whether the taxpayer was negligent in failing to remit sales and use tax due.

Taxpayer was not registered with the department to collect and remit sales tax. Taxpayer also failed to include use tax on its return. Taxpayer made no sales or use tax payments for calendar years 1991 through 1998.

Taxpayer argues that it attended a seminar and was told that the business was a service and not subject

to sales tax. For this reason no sales tax was collected and a request for a waiver of penalties is submitted.

Taxpayer states it sought advice from professionals who should have known the rules and it has recently spoken to other design firms who have different ideas about what is taxable.

Department records indicate the taxpayer was not registered with the department although it sold tangible personal property, made no sales or use tax payments, and failed to register for the collection of sales tax. In addition, taxpayer has not provided reasonable cause for failing to collect sales tax on the sale of tangible personal property.

### **FINDING**

Taxpayer's protest is denied.